GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri J. Venkata Ramana Murthy S/o Apparao, Occ: Painter Mate in Hindustan Ship Yard Ltd., Visakhapatnam, R/o D.No.19-47-6, Rangi Reeju Street, Visakhapatnam District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings, in (M) D.Dis.No.301/2009/C5, dtd:12.03.2012 of the District Collector, Visakhapatnam in cancelling his ST–Konda Kapu Community Certificate – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 3 Dated: 02-02-2021.
Read the following:-

1. Proceedings of the District Collector, Visakhapatnam, No.(M) D.Dis. No.301/2009/C5, dated 12.03.2012.
2. Appeal Petition filed by Sri J. Venkata Ramana Murthy S/o Apparao, Occ: Hindusthan Ship Yard, VSP R/o D.No.19-47-6, Rangi Reeju Street, VSP dt.16.04.2012.
3. Govt. Memo No.5525/CV.2/2012, T.W.(CV.2) Deptt., dt:10.05.2012.
4. Orders dated 05.02.2020 of Hon'ble High Court of A.P. in WP.No.2471/2020 filed by Sri J. Venkata Ramana Murthy, S/o Apparao.
5. Contempt Case.No.736 of 2020 in WP.No.2471/2020 filed by Sri J. Venkata Ramana Murthy, S/o Apparao.
6. From the District Collector, Visakhapatnam, Lr.No.REV-CSEC0GNR (VSSC)/ 38/2020-JA(C5)-VSKPCO, dated 18.06.2020.
7. Govt. Memo No.5525/CV.2/2012, T.W.(CV.2) Deptt., dt:10.09.2020 & 17.11.2020.

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ORDER:

In the Proceedings 1st read above, the District Collector, Visakhapatnam has issued orders cancelling the ST-Konda Kapu Community Certificate issued to Sri J. Venkata Ramana Murthy S/o Apparao, Occ: Painter Mate in Hindustan Ship Yard Ltd., Visakhapatnam, R/o D.No.19-47-6, Rangi Reeju Street, Visakhapatnam District.

2. Sri J. Venkata Ramana Murthy S/o Apparao has filed Appeal Petition before the Government against the Proceedings of the District Collector, Visakhapatnam duly submitting grounds in support of his claim of ST-Konda Kapu Community Certificate and praying to set aside the proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government while admitting the same, have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the orders 4th read above, issued by the Hon'ble High Court of A.P. in WP.No.2471 of 2020 filed by Sri J. Venkata Ramana Murthy, S/o Apparao, the Government was directed to consider the appeal and dispose the same in accordance with the law, within a period of 6 weeks from the date of receipt of a copy of the Court Order. Further, the appellant/ petitioner has filed CC.No.736 of 2020 in WP.No.2471 of 2020 on non-implementation of the orders of Hon'ble High Court.

4. In the letter 6th read above, the District Collector, Visakhapatnam has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri J. Venkata Ramana Murthy S/o Apparao.

5. The said Appeal Petition has been posted for hearing on 21.09.2020 and finally on 28.11.2020 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memos 7th read above. The appellant

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and his counsel have attended the hearing on 28.11.2020. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ the para-wise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam, dated 12.03.2012, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support his claim of ST-Konda Kapu community is as follows:

1. The Respondent has failed to appreciate the reply submitted by the appellant dt.14-2-2012 sent through registered post on 15-2-2010 and there is no reference in the impugned order about the reply submitted by the appellant, as such on the face of it the impugned order is ex facie illegal, arbitrary and violative of principles of natural justice.
2. The Respondent has erred in cancelling the Caste Certificate having recorded findings that "except mentioning his caste as Kapu (Konda) in his school records" and ought not to have cancelled the Caste Certificate since school record is authenticated documentary evidence and ignoring the said record is illegal.
3. The respondent has failed to record specific findings on the basis of the reply and order has been issued mechanically without proper enquiry what so ever.
4. The impugned order is not sustainable either in law or on fact since before issuing impugned order no personal hearing was given to the appellant as such on the face of it, impugned order is liable to be set aside on the ground of violative of principles of natural justice, as no personal hearing i.e. opportunity of being heard is given to the appellant.
5. The respondent ought to have seen from the inception the school records shows that he belongs to ST(Konda Kapu) and in the presence of authenticated school record no further evidence is necessary to establish that the appellant is from ST community, since there is no other evidence in this regard.
6. The appellant pleaded and proved that even their ancestors are hail from ST community and there is no discussion about these aspects in the impugned order as such on the face of it the impugned order is not sustainable. Other grounds would be urged at the time of arguments.

II. The District Collector, Visakhapatnam has furnished the following remarks on the above grounds as follows:

1. Sri. J.V. Ramana Murthy was initially appointed on temporary basis as a Painter Mate in Hindustan Shipyard Ltd., Visakhapatnam w.e.f. 02.01.1982 against a vacancy reserved for ST and the organization requested the Collector and District Magistrate, Visakhapatnam for enquiry of Sri. J.V. Ramana Murthy caste status.

2. In the mean time Sri. J.V. Ramana Murthy was terminated from his temporary service w.e.f. 03.04.1985 for his long unauthorized absence. However, he was reinstated w.e.f. 09.01.1989 as per the orders of the Hon'ble High Court in W.P. No.279/1986 as a fresh entrant against a vacancy reserved for ST but his service not regularized since he did not submit his caste certificate in the prescribed Proforma, even after giving several reasonable opportunities. When it was contemplated to remove him from service on non production of caste certificate, he approached the Hon'ble Court of 1st Addl. Dist. Munsif, Visakhapatnam and Hon'ble Court in its judgment Dt:07.12.1996 while dismissing the suit has directed the organization not to terminate the services of Sri. J.V. Ramana Murthy till the completion of enquiry by the Revenue Dept., with regard to his community status is concluded and till the result intimated by the District Collector. The Hon'ble Court further directed that if the result is against to Sri J.V. Ramana Murthy their organization is at liberty to remove him from service.

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3. Sri. J.V. Ramana Murthy again approached the Hon'ble A.P. High Court for regularization of his service vide W.P.21433/2011 and the Hon'ble High Court while disposing the above W.P. has given an order on 24.02.2009 directing the respondents to take appropriate action for getting the report from the Collector and District Magistrate who conducted the enquiry into the matter with in a period of 2 months from the date of receipt of a copy of the order and thereafter to pass appropriate orders on the issue of regularization of the services of the petitioner within one month.

4. The DLSC enquiry was held on 06.06.2009 and the individual Sri. J.V. Ramana Murthy was present along with his father and submitted the school records and service register of his father before the committee. The Joint Collector and Chairman, DLSC has addressed a letter to the superintendent of Post Offices with a request to submit the detailed report and caste status of the applicant father. The District BC Welfare Officer and Deputy Director, Social Welfare were directed to verify the school records of the candidate and submitted their report.

5. The senior superintendent of Post Offices, Visakhapatnam Division has submitted his report stating that Sri J. Apparao worked as Deputy Sub Post Mater, Andhra University, S.O under Visakhapatnam Postal Division and retired from service on Superannuation i.e. 31.12.1998 and the records in respect of the said retired official are not available since the prescribed period of the preservation of records expired. The Deputy Director, Social Welfare and District B.C. Welfare Officer, Visakhapatnam have verified the school records and found that, the individual is belongs to Konda Kapu.

6. The Joint Collector and Chairman, DLSC instructed the Deputy Director, Tribal Welfare, Paderu to prepare genealogical report of the individual and accordingly the DD, Tribal Welfare, Paderu submitted genealogy report. As seen from the genealogical particulars, the following inferences are made.

   - Neither the individual not his parents have ever resided in agency area. From 1947 onwards they have been residing in Visakhapatnam.
   - All his family members have matrimonial relations with KAPU Community only. None of his family members have any relations with KONDA KAPU Community people.
   - His father is neither aware of the culture and customs of Konda Kapu community, nor practicing the Konda Kapu customs.
   - Except mentioning his caste as KAPU (KONDA) in his school records, there is no other recorded/observable evidence to prove his caste as KONDA KAPU. His family has not suffered from any economic, educational and social disability. Also his family has no social acceptance from the KONDA KAPU community. He has opined that in all corners of justice, the individual may not be treated as KONDA KAPU(ST).

7. On the above inferences, the Joint Collector and Chairman, DLSC opined that the claimant Sri J. V. Ramana Murthy S/o. Apparao belongs to Kapu but not ST Konda Kapu and the ST Certificate of the above individual is liable to be cancelled.

8. Basing on the recommendations of DLSC, the caste certificate of Sri J.V. Ramana Murthy S/o. Apparao has been cancelled by the District Collector, Visakhapatnam vide D.Dis No.301/2009/C5, Dt:12.03.2012.

III. During the course of hearing of the case, the Appellate Authority has observed that;

1. During the course of arguments, the appellant submitted his arguments stating that his father, junior paternal uncle, second junior paternal uncle,

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younger brother and youngest brother are all of them belongs to ST Konda Kapu community as such he is also same community and the school certificates of him clearly shows that he is Konda Kapu, as such on that scores he is able to prove his community as ST Konda Kapu.

2. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the document pertaining to the father of the appellant with regard to the transfer certificate issued by the Head Master, A.V.N. College, Vizagapatam dated 04-09-1946, it is noted that the date of birth as 25-12-1930 and studied there from the year 1935 to 1946 and his caste is Konda Kapu and further the relatives of the appellant community status clearly establishes that they are Konda Kapus. A reading between the lines of the documents and on perusal of the same it is confirming that the father of the appellant was recognized as Konda Kapu prior to Indian independence. In the light of the above the appellant able to prove his claim that his community is Konda Kapu as such he comes under ST Category.

3. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above, hence in the circumstances stated supra, the proceeding in (M) D.Dis.No.301/2009/C5, dated 12-03-2012 of the District Collector, Viskhapatnam District is to be Set-aside by upholding the appellant Schedule Tribe (Konda Kapu) claim.

6. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the appeal petition filed by Sri J. Venkata Ramana Murthy S/o Apparao Occ: Painter Mate in Hindustan Ship Yard Ltd., Visakhapatnam, R/o D.No.19-47-6, Rangi Reeju Street, Visakhapatnam District and the proceedings in (M) D.Dis.No.301/2009/C5, dated 13.03.2012 of the District Collector, Visakhapatnam are hereby set-aside duly upholding the appellant's Scheduled Tribe (Konda Kapu) claim.

7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam.

Sri J. Venkata Ramana Murthy S/o Apparao
R/o D.No.19-47-6, Rangi Reeju Street, Visakhapatnam.

T.V.P. Sai Vihari, Advocate,
D.No.16-10-21, Pingala Swamy Street,
Purnanandapet, Vijayawada-52003.

Sri M.M.M. Srinivasa Rao, Advocate,
2nd Lane, Ayodhya Nagar, Vijayawada, Krishna District.

Copy to:
The General Manager (Personnel & Administration),
Hindustan Ship Yard Limited, Gandhigram, Visakhapatnam.
The PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER